

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Expanding the Economic and Innovation	)	Docket No. 12-268
Opportunities of Spectrum Through Incentive	)	
Auctions	)	

**COMMENTS OF  
WGAL HEARST TELEVISION INC.**

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## SUMMARY

The *Notice* in this proceeding seeks comment on the coverage area and service protection that should be afforded to full-power television stations in connection with the Commission's implementation of the Spectrum Act and the television spectrum band repacking. In particular, the *Notice* proposes to limit protection to only the coverage area and population served by full-power television facilities that were licensed, or for which a license application was on file with the Commission, as of February 22, 2012—the date of enactment of the Spectrum Act.

WGAL Hearst Television Inc., licensee of WGAL(TV), Lancaster, Pennsylvania, respectfully submits that the Commission should—and in fact the Act requires the Commission to—extend repacking protection to additional facilities. Such broader protection is particularly warranted for television stations operating in the VHF spectrum, many of which, including WGAL, have faced unique signal reception and service challenges following the digital television transition.

In light of WGAL's experiences, in addition to the Commission's proposal in the *Notice* to protect full-power facilities licensed (or with a license application on file) as of February 22, 2012, Hearst urges the Commission to protect (1) authorized facilities in operation as of February 22, 2012, whether by Experimental Authority, Special Temporary Authority, or otherwise; (2) facilities that commence operation after February 22, 2012, subject to a “use-it-or-lose-it” construction deadline; (3) facilities that exceed the Commission's ERP limits pursuant to waivers, either previously granted or pursuant to the new ERP limits waiver standard proposed by Hearst herein; and (4) low-power facilities authorized as replacement digital television translators.

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**COMMENTS OF  
WGAL HEARST TELEVISION INC.**

WGAL Hearst Television Inc. (“WGAL” or “Hearst”), licensee of WGAL(TV), Lancaster, Pennsylvania, by its attorneys, hereby submits these comments in response to the Notice of Proposed Rulemaking (“*Notice*”), released October 2, 2012,<sup>1</sup> seeking comment on the Commission’s implementation of Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (the “Spectrum Act” or “Act”).<sup>2</sup> Among several other items, the *Notice* seeks comment on the Commission’s proposal to limit coverage and service protection in the television spectrum band repacking to only the coverage area and population served by full-power television facilities that were *licensed*, or for which a *license application was on file* with the Commission, as of February 22, 2012—the date of enactment of the Spectrum Act.<sup>3</sup>

As set forth herein, Hearst respectfully submits that the Commission should—and in fact the Act requires the Commission to—extend repacking protection to additional facilities. Such

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<sup>1</sup> See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, 27 FCC Rcd 12357 (2012) (“*Notice*”).

<sup>2</sup> See Pub. L. No. 112-96, 125 Stat. 156 (2012).

<sup>3</sup> See *Notice* at ¶ 113.

broader protection is particularly warranted for television stations operating in the VHF spectrum (channels 2 through 13), many of which, including WGAL, have faced unique signal reception and service challenges in the wake of the 2009 digital television transition.<sup>4</sup> Specifically, in addition to the Commission’s proposal in the *Notice* to protect full-power facilities licensed (or with a license application on file) as of February 22, 2012, Hearst, in light of WGAL’s experiences, urges the Commission to protect (1) authorized facilities in operation as of February 22, 2012, whether by Experimental Authority, Special Temporary Authority, or otherwise; (2) facilities that commence operation after February 22, 2012, subject to a “use-it-or-lose-it” construction deadline; (3) facilities that exceed the Commission’s ERP limits pursuant to waivers, either previously granted or pursuant to the new ERP limits waiver standard proposed by Hearst herein; and (4) low-power facilities authorized as replacement digital television translators.

**I. WGAL’S DIGITAL TELEVISION TRANSITION EXPERIENCES ILLUSTRATE THE UNIQUE CHALLENGES FACED BY STATIONS OPERATING IN THE VHF SPECTRUM**

As the Commission is well aware, many full-power stations operating in the VHF spectrum after the digital television transition in 2009 have experienced serious digital reception and service issues. This is particularly true in markets located in the spectrum-congested northeastern region of the country, such as WGAL’s market—Harrisburg-Lancaster-Lebanon-

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<sup>4</sup> See, e.g., FCC File No. BPCDT-20100429AAF (WBAL-TV, Baltimore, MD); FCC File No. BPCDT-20120216ADO (WABC-TV, New York, NY); FCC File No. BMPCDT-20110831ABM (WPVI, Philadelphia, PA); FCC File No. BPCDT-20090922ABF (WTVD, Durham, NC); see also *Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations (Chicago, Illinois)*, Report and Order, 24 FCC Rcd 11880 (2009) (WLS-TV, Chicago, IL).

York, Pennsylvania. Among other causes, the VHF digital reception problems are due primarily to the propagation characteristics of the VHF spectrum, the ineffectiveness of many indoor antennas, and “noise” from consumer electronics devices. As acknowledged by the Commission:

[T]he propagation characteristics of these channels allow undesired signals and noise to be receivable at relatively farther distances, nearby electrical devices tends to emit noise in this band that can cause interference, and reception of VHF signals requires physically larger antennas. . . . We recognize that television broadcasters have had some difficulty in ensuring consistent reception of VHF signals. . . . The VHF TV reception difficulties appear to be most common among consumers who use indoor antennas.<sup>5</sup>

The Commission has recognized that one solution that has been generally effective in mitigating the VHF receptions issues is to increase a station’s effective radiated power (“ERP”).<sup>6</sup> Indeed, that has been the experience of WGAL.

WGAL, an NBC affiliate, has served the community of Lancaster, Pennsylvania, and the greater Susquehanna Valley since it began operations in 1949. WGAL is the top-rated station in its market and broadcasts over 30 hours of award-winning local news, weather, and public affairs programming every week. In 2003, WGAL was awarded the “Service To America” award by the National Association of Broadcasters, recognizing the station as the most public spirited television broadcaster in the nation.

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<sup>5</sup> See generally *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, Notice of Proposed Rule Making, 25 FCC Rcd 16498 (2010), ¶¶ 42-43.

<sup>6</sup> See *id.*, ¶ 48.

Prior to the 2009 digital transition, WGAL operated on analog VHF Channel 8, and pre-transition digital Channel 58. Because WGAL's pre-transition digital Channel was out-of-core, WGAL elected to operate on VHF Channel 8 post-transition.

WGAL's initial post-transition facility was authorized for 7.5 kW ERP,<sup>7</sup> and it was subsequently increased to 8.1 kW ERP<sup>8</sup> and then increased, again, to 14.1 kW ERP.<sup>9</sup> Immediately following the digital transition, Hearst started receiving numerous complaints of poor or no reception from viewers. Hearst confirmed the WGAL viewer reception issues with multiple field tests, including one test on June 29, 2009, in coordination with the Commission's field office at a cable headend in Walnut Bottom, PA. In most cases, the affected viewers (and headends) previously had no problems receiving the station's analog Channel 8 operation (110 kW ERP) or the station's pre-transition digital Channel 58 operation (907 kW ERP). In fact, prior to the DTV transition, and pursuant to Special Temporary Authority in FCC File Number BDSTA-20090512ABA, Hearst conducted a pre-transition testing program of WGAL's post-transition Channel 8 facility and concluded, on an anecdotal basis, that over 20 percent of the test participants who could receive WGAL's analog Channel 8 facility before the digital transition were unable to receive WGAL's post-transition digital Channel 8 facility.

After the 14.1 kW operation proved insufficient to truly replicate coverage of WGAL's analog facility, WGAL requested—and in 2011, the Commission granted—a waiver permitting

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<sup>7</sup> See FCC File No. BMPCDT-20080616ABJ.

<sup>8</sup> See FCC File No. BMPCDT-20090608AAQ.

<sup>9</sup> See FCC File No. BMPCDT-20090710AKB.

WGAL to increase its power above the ERP limits to 32.2 kW ERP,<sup>10</sup> which is WGAL's currently-licensed power.<sup>11</sup> However, viewer complaints continued to persist, and in May 2011, WGAL applied for a construction permit to operate with 59 kW ERP, which currently remains pending.<sup>12</sup> WGAL's construction permit requests waivers of Section 73.616(e) of the Commission's rules to permit predicted interference in excess of the Commission's 0.5 percent new interference limit and Section 73.622(f) to permit an ERP in excess of the power limit for WGAL's height above average terrain ("HAAT") of 419 meters. As explained in WGAL's waiver request, the stations potentially affected by interference in excess of 0.5 percent—WNJB, New Brunswick, New Jersey, and WBPH-TV, Bethlehem, Pennsylvania—have consented to WGAL's 59 kW ERP operation.

Shortly after WGAL filed for the 59 kW ERP construction permit, the Commission authorized WGAL to experimentally operate with 59 kW ERP pursuant to the terms of the construction permit application in accordance with Experimental Authority in FCC File Number BDSTA-20110602ACR.<sup>13</sup> WGAL has continuously operated with 59 kW ERP since the grant of the Experimental Authority—well over one and one-half years. As was expected, this experimental operation has significantly helped improve reception for the WGAL's viewers, and the station has received no complaints of interference from any television station or viewers.

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<sup>10</sup> See FCC File No. BPCDT-20100111AER. In connection with the grant of WGAL's waiver, potentially affected stations, WNJB(DT), New Brunswick, NJ, and WABC-TV, New York, New York, consented to WGAL's 32.2 kW ERP operation.

<sup>11</sup> See FCC File No. BLCDT-20110323ABF (granted June 1, 2011).

<sup>12</sup> See FCC File No. BPCDT-20110516ACI.

<sup>13</sup> WGAL's Experimental Authority was most recently extended in FCC File No. BEDSTA-20120813ABA.



Despite the continued success of WGAL's experimental operation, which was authorized well in advance of the enactment of the Spectrum Act, the station's construction permit application for the 59 kW ERP facility remains pending. As such, WGAL's operation and, in turn, WGAL's viewers, would be severely impacted if the Commission were to only protect in the spectrum repacking those facilities that were licensed (or for which a license application was on file) as of February 22, 2012—this would mean that WGAL's protection would be limited to its 32.2 kW ERP license. Such limitation is not required by the Spectrum Act, and it would be unfair to so limit the protection afforded WGAL and other similarly-situated stations that have been plagued by the notorious post-transition VHF spectrum coverage and reception issues.<sup>14</sup>

## **II. THE PLAIN LANGUAGE OF THE SPECTRUM ACT REQUIRES PROTECTION OF WGAL'S 59 KW ERP OPERATION**

Section 6403(b)(2) of the Spectrum Act requires that the Commission “shall make all reasonable efforts to preserve, as of the date of the enactment of this Act, the *coverage area and population served* of each broadcast television licensee, as determined using the methodology described in OET Bulletin 69 of the Office of Engineering and Technology of the Commission.”<sup>15</sup> While Hearst agrees that the Act requires protection of facilities licensed (or for

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<sup>14</sup> WGAL's sister station, WBAL-TV, Baltimore, Maryland, experienced similar coverage and reception issues on its post-transition VHF Channel 11 which required a power increase from 5.0 kW ERP to 26.6 kW ERP. Unlike with respect to WGAL, the Commission has granted WBAL-TV's waiver request, and WBAL-TV was licensed for 26.6 kW ERP effective February 17, 2012. See FCC File No. BLC DT-20111102ACP. Unlike for WGAL, WBAL-TV's power increase required waiver of only Section 73.616(e) and not Section 73.622(f).

<sup>15</sup> Spectrum Act § 6403(b)(2) (emphasis added).

which a license application was filed) by February 22, 2012, the date of enactment of the Spectrum Act, the Act does not limit protection to only such facilities.

Indeed the plain language of the Act is much broader, insofar as it requires protection of each television station's "coverage area and population served" as of February 22, 2012. This language is not limited to licensed authorizations or any other particular authorizations, and the Act's reference to "each broadcast television *licensee*" can only refer to the type of entity entitled to protection, not the type of facility entitled to protection. It is a bedrock canon that statutory construction "must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose."<sup>16</sup> Had Congress intended to limit protection to facilities licensed as of February 22, 2012, Congress could have easily said so.

Accordingly, the plain language of the Act requires protection of the "area and population served" by each television station as of February 22, 2012. That is, any television facility lawfully in operation on February 22, 2012, regardless of the type of authorization, is entitled to protection. Any interpretation of the Act otherwise would be contrary to its plain language and the overriding goal of the Spectrum Act to ensure that broadcast television service remains as readily available to American viewers as it was on the date of the enactment.

Hearst respectfully requests that the Commission adopt this plain reading of the Act in lieu of the restrictive interpretation proposed in the *Notice*. With respect to WGAL, since WGAL was operating with 59 kW ERP pursuant to its Experimental Authority as of February 22, 2012, a plain reading of the Act requires the Commission to protect the "area and population

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<sup>16</sup> *Park 'N Fly, Inc. v. Dollar Park and Fly, Inc.*, 469 U.S. 189, 194 (1985).

served” by such operation despite the fact that WGAL did not have a license or license application pending for that facility at that time.<sup>17</sup>

### **III. THE SPECTRUM ACT PROTECTION PROVISION SHOULD BE CONSTRUED TO PROTECT FACILITIES THAT COMMENCE SERVICE AFTER FEBRUARY 22, 2012, AND PRIOR TO A “USE-IT-OR-LOSE-IT” CONSTRUCTION DEADLINE**

In addition to requiring protection of facilities that provided service as of February 22, 2012, like WGAL’s 59 kW ERP facility, Section 6403(b)(2) of the Spectrum Act should also be construed to protect certain facilities that commence service after February 22, 2012. Because the Act does not specifically limit protection to any particular television facilities, the Spectrum Act merely creates a “floor” of protection—that is, the Act requires the Commission to make “all reasonable efforts” to preserve, *at a minimum*, the “area and population served” by stations as of February 22, 2012. Indeed, in the *Notice*, the Commission acknowledges that the Act only prescribes a minimum floor of protection and does not “prohibit the Commission from granting protection to additional facilities where appropriate.”<sup>18</sup>

Accordingly, Hearst respectfully requests that the Commission adopt rules that, in addition to protecting facilities in operation on February 22, 2012 (including licensed operations, program test authority operations, and special temporary or experimental authorization operations), protect all existing and new construction permits subject to a “use-it-or-lose-it” deadline prior to the spectrum repacking. The Commission should protect such post-

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<sup>17</sup> Moreover, if the Commission had granted WGAL’s 59 kW construction permit application at any time prior to February 22, 2012, Hearst would have promptly filed a license application to reflect WGAL’s actual operation at 59 kW ERP.

<sup>18</sup> See *Notice* at ¶ 113.

February 22, 2012, facilities up to a deadline in advance of the spectrum repacking using procedures similar to the “use-it-or-lose-it” procedures adopted by the Commission in the digital transition.<sup>19</sup> Such procedures should include establishing a future cut-off/application freeze date (which should be no earlier than the initial round of the spectrum auction), requiring stations to notify the Commission of which facility each station intends to “use,” and establishing a date in advance of the repacking by which the elected facilities must be constructed. Like with the DTV transition, the “use-it-or-lose-it” deadline would be subject to waiver or extension in exigent circumstances, and otherwise, failure to satisfy the deadline would result in stations defaulting to the protection “floor” established by the Act—their authorized facilities as of February 22, 2012.

Not allowing stations the opportunity to protect post-February 22, 2012, facilities would be patently unfair and contrary to the public interest. The Commission has continued to accept, process, and grant digital television construction permit and license applications after February 22, 2012, including after the release of the *Notice*. Some stations who received construction permits prior to February 22, 2012, relied on the standard three-year construction deadline and elected to defer construction and other related expenses to sometime after February 22, 2012. Other stations are, or were as of February 22, in the middle of construction projects, with significant expenses already incurred or committed. And other stations, such as WGAL, have had construction permit applications pending well in advance of the February 22, 2012. These stations simply have had no prior notice that the Commission’s interpretation and implementation of the Spectrum Act might not afford protection to their facilities—had the

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<sup>19</sup> See *Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Report and Order, 19 FCC Rcd 18279 (2004).

Commission afforded prior notice, these stations may have modified their construction plans accordingly.<sup>20</sup> These stations have justifiably relied on the Commission's normal processes, and they have expended significant financial and other resources based on this reliance in an effort to improve their stations' service to the public. The failure to allow these stations notice and a "use-it-or-lose-it" opportunity to protect their facilities, when such notice and opportunity is not prohibited by the Spectrum Act, would be arbitrary and capricious and would violate procedural due process.<sup>21</sup>

Moreover, in cases where post-February 22, 2012, facilities have now commenced operating, the public has come to rely on the coverage area and service provided by these facilities. In these circumstances, it would be contrary to the public's interest to deny a protection opportunity to such stations. This is particularly so since the Commission has previously recognized the need for a similar opportunity in the digital television transition, and there the Commission specifically addressed that need with the digital transition "use-it-or-lose-it" procedure. As such, Hearst respectfully urges the Commission to adopt a similar mechanism here.

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<sup>20</sup> In WGAL's case, of course, construction of the proposed facility has already been completed and operations implemented pursuant to lawful Commission authority.

<sup>21</sup> See, e.g., *FCC v. Fox TV Stations, Inc.*, 132 S. Ct. 2307, 183 L. Ed. 2d 234 (2012); *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532 (1985).

**IV. THE COMMISSION SHOULD PROTECT FACILITIES THAT EXCEED ERP LIMITS, AND THE COMMISSION SHOULD ADOPT A WAIVER STANDARD PURSUANT TO WHICH IT WILL APPROVE SUCH FACILITIES**

The *Notice* proposes to not protect coverage areas of stations whose operations exceed the ERP limits in Section 73.622(f) of the Commission's rules.<sup>22</sup> The *Notice* provides no justification for this proposal, which is misguided for a number of reasons.

As recognized by the Commission, numerous stations have current authorizations, including WGAL's current license for 32.2 kW ERP, that were granted in connection with waivers of the Section 73.622(f) ERP limits.<sup>23</sup> The plain language of the Spectrum Act, as discussed above, requires protection of these authorizations, particularly to the extent stations were operating in accordance with these authorizations as of February 22, 2012. Nowhere does the Spectrum Act make any exception with respect to waivers. As such, facilities approved by the Commission should be protected regardless of whether they were granted pursuant to a waiver. Furthermore, the Commission's proposal not to protect facilities for which a waiver has been granted conflicts with (a) the Spectrum Act's goal to ensure that viewers have the same access to broadcast stations as they did on the date of enactment of the Act, and (b) the Commission's recognition that increases of ERP above the 73.622(f) are often necessary to help stations overcome the signal coverage and reception challenges presented by digital VHF operation. Accordingly, Hearst submits that the Commission's failure to protect coverage areas

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<sup>22</sup> See *Notice* at ¶ 100, n 157.

<sup>23</sup> See *Notice* at ¶ 85, n 128; *id.* at ¶ 100, n. 157; *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Replacement Digital Low Power Television Translator Stations*, Report and Order, 24 FCC Rcd 5931 (2009) ("*Replacement Digital Translator Order*"), at ¶ 48, n. 78.

of stations whose operations exceed the ERP limits would be arbitrary and capricious and an impermissible change of course in the Commission's policy without the advance notice required by both the Administrative Procedure Act and the U.S. Constitution.<sup>24</sup>

Moreover, in addition to protecting existing facilities that are authorized pursuant to a Section 73.622(f) ERP limits waiver, the Commission should adopt an express waiver standard that allows for the grant (and, therefore, protection) of such waivers for pending and future VHF applications, including WGAL's long-pending application for 59 kW ERP. This waiver standard should apply to applications pending and filed prior to the spectrum repacking, subject to a "use-it-or-lose-it" deadline as discussed above. Furthermore, this waiver standard should be available for stations to use after the spectrum repacking to the extent necessary to address reception problems that may result from the repacking. Specifically, Hearst urges the Commission to adopt a waiver standard that presumes a waiver of the ERP limits in Section 73.622(f) would serve the public interest if the following conditions are satisfied:

- (1) The proposed ERP increase is for a digital VHF operation and is intended to restore (or protect) service to either (a) the station's pre-digital transition analog viewers, or (b) the station's pre-spectrum repacking digital viewers;
- (2) The proposed ERP increase would not result in new predicted interference to any other station in violation of Section 73.616(e); or if such interference is predicted, the potentially impacted stations have consented to the proposed ERP increase; and
- (3) The licensee has obtained either Special Temporary Authority or Experimental Authority to conduct test operations with the proposed ERP increase; such test operations have been conducted continuously for at least three months; and the station has received no complaints from the public of actual interference caused to other television stations.

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<sup>24</sup> See, e.g., *FCC v. Fox TV Stations, Inc.*, 132 S. Ct. 2307, 183 L. Ed. 2d 234 (2012).

Under the foregoing proposed waiver standard, WGAL's pending 59 kW ERP application could be granted. And, as such, the viewers that have been served by WGAL's long-term and complaint-free Experimental Authorization operation would continue to be served and protected on a permanent basis.

## **V. THE COMMISSION SHOULD PROTECT COVERAGE AREAS OF REPLACEMENT DIGITAL TELEVISION TRANSLATORS**

In addition to WGAL's experimental operation with 59 kW ERP (and pending request for permanent authorization), WGAL has sought to mitigate its VHF reception issues by using replacement digital translator stations—a secondary broadcast service specifically created by the Commission to permit full-power television stations to continue to provide service to viewers who had lost service as a result of the DTV transition.<sup>25</sup> Because replacement digital translators are solely intended to restore service within a full-power station's coverage area, they are paired with the full-power station's main license—they are not independently licensed and may not be separated from the associated full-power station.

WGAL has a 15 kW ERP replacement digital translator licensed on Channel 49 in Harrisburg,<sup>26</sup> a construction permit for a 15 kW ERP replacement digital translator on Channel 51 in Lancaster,<sup>27</sup> and a construction permit for a 15 kW ERP replacement digital translator on Channel 31 in Gettysburg.<sup>28</sup> In addition, WGAL has applications pending for replacement

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<sup>25</sup> See *Replacement Digital Translator Order*.

<sup>26</sup> See FCC File No. BLCDDT-20120511ABN.

<sup>27</sup> See FCC File No. BDRTCDT-20100329ACY.

<sup>28</sup> See FCC File No. BDRTCDT-20090824ADR.



digital translators on Channel 27 in Carlisle,<sup>29</sup> Channel 27 in Red Lion,<sup>30</sup> and Channel 49 in Ephrata.<sup>31</sup> WGAL's sister stations also have replacement digital translators in several other markets throughout the country.<sup>32</sup>

Because the unique purpose of replacement digital translators is to restore service losses as a result of the DTV transition, including losses caused by the VHF reception issues, the coverage and population served by these stations should be considered part of the "coverage area and population served" by their associated full-power stations under the Act. Nothing in the Spectrum Act prohibits the Commission from protecting the population served by replacement translators. As discussed above, the protection provision of the Act is merely a "floor," and the Commission has the authority to protect additional facilities "where appropriate."<sup>33</sup> Indeed, the Spectrum Act could be construed to *require* protection of replacement digital translator stations given that such stations are inextricably tied to the "coverage area and population served" of their associated full-power stations. According, Hearst urges the Commission to protect the coverage areas and population served by digital replacement translators in the spectrum

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<sup>29</sup> See FCC File No. BDRTCDT-20090824ADP.

<sup>30</sup> See FCC File No. BDRTCDT-20090824ADX.

<sup>31</sup> See FCC File No. BDRTCDT-20090824ADN.

<sup>32</sup> For example, WESH, Channel 24, Ocala, FL, FCC File No. BLCDT-20110401ACE; WESH, Channel 18, Orange City, FL, FCC File No. BDRTCDT-20090819AAB; WMTW, Channel 26, Portland, ME, FCC File No. BLCDT-20100423ABV; WTAE-TV, Channel 22, Pittsburgh, PA, FCC File No. BLCDT-20091223AKV; and KCCI, Channel 31, Des Moines, IA, FCC File No. BDRTCDT-20090916ABZ.

<sup>33</sup> See Notice at ¶ 113.

repacking—this protection should extend regardless of whether the technical facility of the full-power station relying on a replacement translator is impacted by the repacking.

## **VI. CONCLUSION**

In the *Notice*, the Commission identifies a central goal of the spectrum repacking to be “preserving a healthy diverse broadcast television service.”<sup>34</sup> Nothing can be more fundamental to this goal than ensuring that broadcast television service remains readily available to the American public and that the spectrum repacking has minimal impact on the coverage and population currently served by television stations. Indeed, the Act specifically requires the Commission to “make all reasonable efforts” to preserve such coverage.

For the foregoing reasons, the Act’s protection provision should not be read narrowly to limit protection to pre-February 22, 2012, facilities. Rather, Hearst urges the Commission to broadly construe the Act to extend repacking protection as discussed herein.

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<sup>34</sup> See *Notice* at ¶ 10.

Respectfully submitted,

**WGAL HEARST TELEVISION INC.**

/s/

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